REMARKS

This Application has been carefully reviewed in light of the Office Action dated December 13, 2007 ("*Office Action*"). At the time of the *Office Action*, Claims 1-16 were pending and rejected in the Application. Applicants have amended Claims 1, 2, 5, 6, 11, 12, and 13; and added new Claims 17-20. Applicants submit that no new matter is added by these amendments. As described below, Applicants believe all claims to be allowable over the cited references. Therefore, Applicants respectfully request reconsideration and full allowance of all pending claims.

Objections to the Drawings

The Examiner requests new corrected drawings in compliance with 37 C.F.R. § 1.121(d) because of the handwriting on the drawings. Applicants have redrafted Figure 2 such that it does not include handwritten reference numerals. A Replacement Sheet for Figure 2 is attached. Applicants respectfully request that the objection to the drawings be withdrawn.

Objections to the Specification

The Examiner objects to the Specification on the basis that the title of the invention is not descriptive. Specifically, the Examiner objects to the Specification "because the legal words "system" and "method" should be removed." (*Office Action*, page 2). Applicants traverse the objection to the Specification on this basis.

Initially, Applicants note that the Examiner cites no authority for the proposition that the terms "system" and "method" should not be included in a title for a patent Application. The M.P.E.P. provides guidance for the title of the invention:

> The title of the invention should be placed at the top of the first page of the specification unless it is provided in the application data sheet (see 37 CFR 1.76). The title should be brief but technically accurate and descriptive and should contain fewer than 500 characters. Inasmuch as the words "new," "improved," "improvement of," and "improvement in" are not considered as part of the title of an invention, these words should not

> be included at the beginning of the title of the invention and will be deleted when the Office enters the title into the Office's computer records, and when any patent issues. Similarly, the articles "a," "an," and "the" should not be included as the first words of the title of the invention and will be deleted when the Office enters the title into the Office's computer records, and when any patent issues.

M.P.E.P. § 606. Thus, while the M.P.E.P. indicates that the terms "new," "improved," "improvement," and various articles should not be included, there is no indication in the M.P.E.P. or in 37 C.F.R. § 1.76 that the terms "system" and "method" are not descriptive.

Further, while preparing this Response to Office Action, Applicants performed a search of the official website of the USPTO for patents including both the terms "system" and "method" in the title. The search identified 103,321 **issued** patents. Applicants respectfully submit that it is common practice for patents to include the terms "system" and "method," as evidenced by the more than 100,000 patents that have issued with such terms in the title.

For at least these reasons, Applicants respectfully request that the objection to the Specification be withdrawn.

Section 102 Rejections

The Examiner rejects Claims 1-16 under 35 U.S.C. § 102(b) as being anticipated by "BEA Web Logic Portal Deployment Guide," Version 4.4, May 2002 ("*BEA*"). Applicants respectfully request reconsideration and allowance of Claims 1-16 for the reasons discussed below.

Independent Claim 1 of the present Application, as amended, recites:

> A method of automatically deploying program units to a cluster of networked servers, comprising:
> assembling one or more program units for deploying to a cluster of networked servers;

retrieving information related to the cluster of networked servers from a deployment server;

automatically, and without user input, generating deployment descriptors from the information retrieved from the deployment server; and

deploying the one or more program units to the cluster using at least the deployment descriptor.

Whether considered alone or in combination with any other cited references, *BEA* does not disclose, either expressly or inherently, each and every element of the claims.[1]

For example, *BEA* does not disclose, teach, or suggest "automatically, and without user input, generating deployment descriptors from the information retrieved from the deployment server," as recited in Claim 1. In fact, Applicants respectfully submit that *Bea* is a user guide providing instructions to users and describing the steps necessary for deploying applications. In the *Office Action* the Examiner relies on page 5-3 of *Bea* for disclosure of Applicants' step of "generating deployment descriptors." However, the cited portion of *Bea* merely discloses that "[t]o create deployment descriptors for your enterprise application," a user must copy reference files, modify application.xml, and modify application-config.xml. (*Bea*, page 5-3). To copy the reference files, *Bea* discloses that the user must "create a directory named META-IF" and identifies two files that must be copied to the user's META-INF directory. (*Bea*, page 5-4). To modify the "application.xml" file, *Bea* discloses that the user must use a text editor to modify the application name, the declarations for web applications, the declarations for EJBs, and the declarations of security roles. (*Bea*, page 5-4). Finally, to modify the "application-config.xml" file, *Bea* discloses that the user must "use a text editor to remove declarations for MBeans that configure services you do not use." (*Bea*, page 5-7). Thus, each step disclosed in *Bea* for creating deployment descriptors requires a user to perform a specific task. Accordingly, *Bea* does not disclose, teach, or suggest "automatically, and without

[1] "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); MPEP § 2131. In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); MPEP § 2131 (*emphasis added*).

user input, generating deployment descriptors," as recited in Claim 1. Additionally, *Bea* does not disclose, teach, or suggest that such deployment descriptors are automatically generated "from the information retrieved from the deployment server," as recited in Claim 1.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 1, together with Claims 2-4 and 6-10 that depend on Claim 1.

The Examiner also relies on *Bea* to reject independent Claims 11 and 13. Applicants respectfully submit, however, that *Bea* does not disclose, teach, or suggest each and every element of Applicants' independent Claims 11 and 13. For example, Claim 11 recites "automatically, and without user input, generating deployment descriptors from the information retrieved from the deployment server." As another example, Claim 13 recites "container management module operable to: . . . automatically, and without user input, generate deployment descriptors from the information retrieved container information." Thus, for reasons analogous to those discussed above with regard to Claim 1, Applicants respectfully submit that *Bea* does not disclose, teach, or suggest each and every element set forth in Applicants' independent Claims 11 and 13.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 11 and 13, together with Claim 12 that depends on Claim 11 and Claims 14-16 that depend on Claim 13.

Claim 5 has been rewritten in independent form to include the limitations recited in Claim 1 prior to any amendment in this Response to Office Action. Applicant respectfully submits that *Bea* does not disclose, teach, or suggest the each and every element recited in Applicant's Claim 5, as originally filed. For example, *Bea* does not disclose, teach, or suggest "wherein the retrieving comprises . . . automatically retrieving information related to one or more virtual hosts in the cluster," as recited in now independent Claim 5. In the *Office Action*, the Examiner identifies step 5(b) on page 5-24 of *Bea* as disclosing the

elements of Claim 5. However, the cited portion merely relates to a process that is described for performance by a user to add a ToolSupport application. (*Bea*, page 5-24). Specifically, the cited portion states that if a user wishes to "deploy multiple enterprise applications onto the same server instance, you must modify the URI of the WebLogic Portal Administration Tools Web application so that each one uses a unique address." (*Bea*, page 5-24). To do so, *Bea* discloses that the user must open an identified application using a text editor and then manually "[f]ind the XML element that declares the WebLogic Portal Administration Tools Web application" and "[m]odify the value of the <context-root> element . . . [to] encode the name of the parent enterprise application in the WebLogic Portal Administration Tools Web application." For example, a user must replace "<context-root>tools</context-root>" with "<context-root>tools_BankApp</context-root>." Because the disclosed steps merely relate to the modification of a file for the deployment of multiple applications on the same server, and not to "automatically **retrieving** information related to one or more **virtual hosts** in the cluster," Applicants submit that *Bea* does not disclose, teach, or suggest each and every element recited in now independent Claim 5. In fact, Applicants submit that the cited portion is devoid as to any discussion of "retrieving information" or "virtual hosts."

For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claim 5.

New Claims 17-20

New Claims 17 and 18 have been added and depend on Claim 1. New Claims 19 and 20 have been added and depend on Claims 5 and 11, respectively, which Applicants have shown above to be allowable. Claims 17-20 are patentable at least because of their respective dependencies and further because they recite additional features not disclosed, taught, or suggested in the prior art. Accordingly, Applicants respectfully request consideration and allowance of new Claims 17-20.

No Waiver

Additionally, Applicants have merely discussed example distinctions from the references cited by the Examiner. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicants are sufficient to overcome the Examiner's rejections.

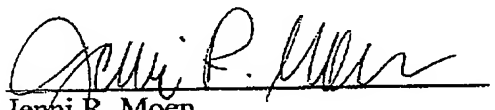
CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Jenni R. Moen, Attorney for Applicants, at the Examiner's convenience at (214) 953-6809.

The Commissioner is authorized to charge $210.00 to Deposit Account No. 02-0384 of Baker Botts L.L.P. for an additional independent claim. Applicants believe that no other fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicants



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Date: March 13, 2008

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